

REMARKS

The Office Action dated April 10, 2007, has been fully considered. The present Response is intended to be a complete reply thereto and to place the case in condition for allowance.

Claims 1-15 are pending. Claims 5-7 have been amended. Claim 5 has been amended to clearly recite a product by process claim. Support for the amendment is found, *inter alia*, in the specification on page 2, first paragraph. Claims 6-7 have been amended to recite the same preamble as claim 1, from which they depend.

THE CLAIMS ARE ENABLED

Claims 1-15 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to “provide enablement for mouth wash solutions containing potassium nitrite [*sic*], sulfur, and activated carbon.” Applicant respectfully traverses the rejection.

Applicant respectfully submits that none of the present claims recite a mouth wash solution containing potassium nitrate, sulfur, and activated carbon, as alleged by the Examiner. The present application contains five (5) independent claims, with claims 1, 3, and 5 drawn to a mouth and/or throat wash being made by the steps recited; claim 2 drawn to a sac containing potassium nitrate, sulfur, and activated carbon; and claim 4 drawn to a method of producing a mouth or throat wash. Specifically, with respect to claims 1, 3, and 5, these claims are product by process claims which are proper under U.S. practice. *See* MPEP 2113. These claims recite a mouth or throat wash that is made using a sac containing potassium nitrate, sulfur, and activated carbon. Claim 2 is drawn to a water immersible permeable sealed sac containing potassium nitrate, sulfur, and activated carbon. Claim 2 does not claim a mouth wash at all. Claim 4

claims a method of producing a mouth or throat wash using a sac containing potassium nitrate, sulfur, and activated carbon. Again, claim 4 does not claim a mouth wash, but a method of making a mouth wash. In summary, none of the claims recite a mouth wash containing potassium nitrate, sulfur, and activated carbon. Only the sac that is used to make the mouth wash contains potassium nitrate, sulfur, and activated carbon. Therefore, the Examiner's rejection is not applicable to any of the present claims.

“Any analysis of whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention.” MPEP 2164.01 (emphasis added). Here, one skilled in the art from reading the specification would know how to make and use the present invention. The disclosure clearly enables one skilled in the art to make and use a mouth or throat wash using a permeable sac containing potassium nitrate, sulfur, and activated carbon. To make the mouth or throat wash, one follows the step of immersing the sac in boiling water, and remove the sac from the water after a period of time and allowing the water to cool. *See, e.g.*, page 1, second paragraph, of the specification. To use the mouth or throat wash of the present invention, one gargles with the mouth or throat wash to treat throat infection. *See, e.g.*, page 3, first paragraph, of the specification. Therefore, the specification clearly enables one skilled in the art to make and use the present invention. Accordingly, Applicant respectfully requests withdrawal of the rejection.

THE CLAIMS SHOULD BE ALLOWABLE

Applicant specifically notes that on page 2 of the Office Action, the examiner states that “[t]he prior art does not appear to disclose the use of a water permeable sac containing the mixture above and used to prepare the mouthwash.” As such, at least claims 2 and 4, and their dependent claims should be free of the prior art and allowable, because claim 2 recites the permeable sac, and claim 4 recites the method of making a mouthwash using the sac.

CONCLUSION

Applicants have responded to the Office Action mailed April 10, 2007. All pending claims are now believed to be allowable and favorable action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (124459-00101). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, applicant hereby petitions under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

U.S. Serial No.: 10/562,320
Attorney Docket No.: 124459-00101
Reply to Office Action dated April 10, 2007

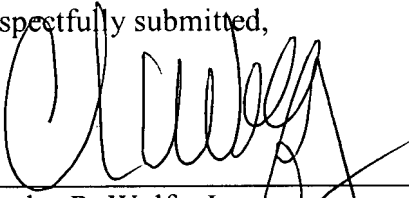
Any fees due are authorized above.

Date:

July 9, 2007

By:

Respectfully submitted,



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